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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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June 27, 2014

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, HI

Land Board Members:

SUBJECT: REQUEST APPROVAL TO AUTHORIZE THE CHAIRPERSON TO EXECUTE AND SIGN THE CURATORSHIP AGREEMENT BETWEEN THE BOARD OF LAND AND NATURAL RESOURCES AND HO'OPAKELE HEIAU REGARDING THE STATE INVENTORY OF HISTORIC PLACES HEIAU SITE #50-10-35-18695, WAIAKEA AHUPUA'A, DISTRICT OF SOUTH HILO, ISLAND OF HAWAI'I

This submittal requests the Board's approval to authorize the Chairperson to execute and sign the curatorship agreement between the Board of Land and Natural Resources and Ho'opakele Heiau, regarding the State Inventory of Historic Places heiau site #50-10-35-18695, Waiakea Ahupua'a, District of South Hilo, Island of Hawai'i.

BACKGROUND:

The Site 18695 heiau is situated on unencumbered State Land at a locality known as Baker's Beach, Ahupua'a of Waiakea, South Hilo, Island of Hawai'i. This site is the last known remaining intact heiau in the Hilo area, which increases its significance and the need to ensure its preservation within a setting that enhances its cultural and historical integrity. The mapped location of the heiau was recorded in 1932, when it first appeared on the Hawai'i County Tax Plat (2-1-007). The heiau is still depicted on the current plat 007 tax map. A State Inventory of Historic Places (SIHP) site number was assigned to the site in 1983, when it was identified by a Corps of Engineers archaeologist and reported to the SHPD. Currently, the heiau encompasses an area of approximately 12,000 square feet at the location depicted on the Tax Map Plat (3) 2-1-007. The site is a significant cultural and historic resource and is eligible for listing in the Hawai'i Register of Historic Places.

DISCUSSION:

Ho'opakele Heiau is a volunteer group formed for the sole and specific purpose of preserving the unnamed heiau situated along the shoreline between Reed's Bay and Kuhio Bay in Hilo at TMK (3) 2-1-007:011. The group was established in 2011 through the efforts of Mr. Donald Pakele, the Curator Coordinator, and it is an unincorporated association entity registered with the Department of Commerce and Consumer Affairs. This agreement establishes Ho'opakele Heiau as curators of the unnamed heiau (Site 18695), for the purposes of working with the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) in the maintenance, management, interpretation, documentation and monitoring of this historic property.

The State is owner of the 2.32 acres parcel on which Site 18695 is situated and through DLNR has authority over all activities including management, care, planning, maintenance and restoration within the parcel. The SHPD has been actively involved in the documentation of the heiau and will oversee the operations and activities of the Curator for compliance with the agreement. The Curator will perform all duties and responsibilities without pay from the State. Upon request and subject to availability, the State will provide the Curator with equipment, tools and supplies for the care and maintenance of the heiau, which occupies approximately 12,000 square feet within the subject property.

RECOMMENDATION:

That the Board authorizes the Chairperson to execute and sign the curatorship agreement between the Board of Land and Natural Resources and Ho'opakele Heiau, regarding the State Inventory of Historic Places heiau site #50-10-35-18695, Waiakea Ahupua'a, District of South Hilo, Island of Hawai'i.

Respectfully submitted,



Alan S. Downer, Ph.D.
SHPD Administrator

APPROVAL FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources

CURATORSHIP AGREEMENT

STATE INVENTORY OF HISTORIC PLACES HEIAU SITE 50-10-35-18695 WAIĀKEA AHUPUA‘A, DISTRICT OF SOUTH HILO ISLAND OF HAWAI‘I

This curatorship agreement, executed on the dates indicated below, is effective as of _____, 2014, between the STATE OF HAWAII (hereafter “State”), through its Board of Land and Natural Resources (BLNR), by its Chairperson, whose address is 1151 Punchbowl Street, Honolulu, Hawai‘i 96813 and HO‘OPAKELE HEIAU (also referred to herein as “Curator”, by Don Pakele, Curator Coordinator, whose address is 117 Alapaki Place, Hilo, Hawai‘i 96720.

INTRODUCTION

Ho‘opakele Heiau is a volunteer group formed for the sole and specific purpose of preserving the unnamed heiau situated along the shoreline between Reed’s Bay and Kuhio Bay in Hilo at TMK (3) 2-1-007:011. The group was established in 2011 through the efforts of Mr. Donald Pakele, the Curator Coordinator, and it is an unincorporated association entity registered with the Department of Commerce and Consumer Affairs. This agreement establishes Ho‘opakele Heiau as curators of the unnamed heiau (Site 18695), for the purposes of working with the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) in the maintenance, management, interpretation, documentation and monitoring of this historic property.

The State is owner of the 2.32 acres parcel on which Site 18695 is situated and through DLNR has authority over all activities including management, care, planning, maintenance and restoration within the parcel. The SHPD has been actively involved in the documentation of the heiau and will oversee the operations and activities of the Curator for compliance with the agreement. The Curator will perform all duties and responsibilities without pay from the State. Upon request and subject to availability, the State will provide the Curator with equipment, tools and supplies for the care and maintenance of the heiau, which occupies approximately 12,000 square feet within the subject property.

Access to Site 18695 shall be an access trail from Ocean View Drive to Site 18695, across State land (through TMKs (3) 2-1-007:011 and 025). This access trail and a parking area adjacent to the trail head at Ocean View Drive will be maintained by the Curator (Exhibit 1).

BACKGROUND

The Site 18695 heiau is situated on unencumbered State Land at a locality known as Baker’s Beach, Ahupua‘a of Waiākea, South Hilo, Island of Hawai‘i. This site is the last known remaining intact heiau in the Hilo area, which increases its significance and the need to ensure its preservation

within a setting that enhances its cultural and historical integrity. The mapped location of the heiau was recorded in 1932, when it first appeared on the Hawai'i County Tax Plat (2-1-007). The heiau is still depicted on the current plat 007 tax map. A State Inventory of Historic Places (SIHP) site number was assigned to the site in 1983, when it was identified by a Corps of Engineers archaeologist and reported to the SHPD. Currently, the heiau encompasses an area of approximately 12,000 square feet at the location depicted on the Tax Map Plat (3) 2-1-007 (Exhibit 1). The site is a significant cultural and historic resource and is eligible for listing in the Hawai'i Register of Historic Places.

THE AIM OF THE STATE OF HAWAI'I CURATOR AGREEMENT

The State of Hawaii curator agreement program was initiated by the DLNR Division of State Parks and its Historic Sites Section in 1986. The aims are to:

1. Better maintain significant historic sites and natural resources and protect them from vandalism, natural factors and unintentional human actions that will damage sites.
2. Provide the State's citizens greater access to view and understand the importance of these sites and the State's past history.

CURATOR RESPONSIBILITIES

1. The Curator will coordinate all actions and activities undertaken in the execution of this Agreement with the SHPD.
2. The Curator will maintain the grounds of the heiau (Site 18695) and access trail within Parcel 011 and the access trail within Parcel 025. This will be done with the utmost care to prevent damage to the structural integrity of the site and to the subsurface archaeological deposits. Weed-eaters, machetes, lawn mowers, cane knives, chain saws and other hand tools may be used. Plants should not be pulled up by the roots, as this can displace rocks and damage subsurface deposits. Herbicides will not be used unless approved beforehand by the SHPD.
3. All cut and gathered vegetation from the site shall be disposed of at designated green waste facilities.
4. The Curator will assist in coordinating volunteer efforts that may be forthcoming from other organizations and individuals. Such other groups and individuals may participate in activities without being required to become members of Ho'opakele Heiau.
5. The Curator will prohibit alcohol consumption, illegal drug use, camping, littering, motorcycles, all-terrain vehicles, vandalism, and commercial activities by the volunteers. Any and all such prohibitions will be strictly enforced.
6. The Curator will periodically check the site as a deterrent to potential vandalism and to prevent camping, squatting and property damage. Should any such activities or damage occur, the SHPD will be notified.
7. Any proposed restoration work at Site 18695 will be documented in a plan and approved by the SHPD in accordance with §13-277 HAR, prior to implementation.

8. The Curator will participate in all work and activities and shall participate in meetings regarding Site 18695.
9. The Curator may retain, at its sole expense, the services of cultural experts and kūpuna for the purpose of identification, interpretation, restoration and cultural protocol while conducting mālama 'āina activities at Site 18695. Additionally, the Curator may retain, at its sole expense, the services of a professional archaeologist should cultural experts, kūpuna, or the SHPD deem it necessary. The archaeologist shall meet the professional qualifications established by §13-281 HAR and hold a valid permit to conduct archaeological activities in Hawaii in accordance with §13-282 HAR.
10. The Curator may propose amendments to the agreement to undertake tasks at the site. Upon approval by all signatories, the amendments will become a part of this agreement.
11. All proposed interpretive plans developed under this agreement shall be submitted to the SHPD for review in accordance with §6E-7 and 8 HRS, and all applicable administrative rules.

RESPONSIBILITIES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES

1. The SHPD will provide the Curator with information reasonably available to the SHPD relating to the site, including but not limited to archaeological and historic information, surveys, environmental impact statements and plans regarding existing and proposed uses of lands in the immediate vicinity of the site.
2. To the extent reasonably possible, the SHPD will provide information and resources to assist the Curator in the preparation of any planning documents or amendments to this agreement, and will provide timely reviews of such documents within 30 days of receipt.
3. The DLNR, in its sole discretion, will continue to manage and be responsible for the area covered by this curator agreement and may issue permits, conduct archaeological or other research and investigative activities, install regulatory signs and implement management plans. The DLNR will consult with the Curator on these activities.
4. The SHPD is responsible for monitoring the performance of this agreement by conducting two field checks per year at a minimum.

RESTRICTIONS ON THE CURATOR'S ROLE

1. The Curator may not undertake or allow tasks that are not specified in this agreement. No matter how sincere the intent of the Curator, a fragile site can easily be damaged.
2. Failure to obtain the SHPD approval may lead to the revoking of this agreement and potentially pursuit of civil or criminal penalties under sections 6E-11, 6E-11.5, or 6E-11.6 HRS if historic properties are damaged or altered without prior approval of the SHPD.
3. It is the role of the Curator to help protect the historic properties covered by this agreement and to help provide public access for all the State's citizens. The Curator is not the owner of Site 18695 and cannot restrict or control access.

CHECKS TO ENSURE PROPER CURATION

If it is determined that tasks specified in this agreement are not being appropriately performed, or if tasks not specified in this agreement are conducted, the SHPD may notify the Curator in writing of the problem and will provide suggestions to correct the problem. The Curator may be allowed a reasonable time to correct the problem. The parties may make a good faith effort to resolve any issues or disagreements provided that nothing in this paragraph affects the rights to terminate as stated below.

TERMS OF THIS AGREEMENT

The term of this agreement shall be for five (5) years, renewable for each five (5) year period upon agreement of the principals. Either party may terminate the agreement, without cause, upon thirty (30) days, with written notice.

LIABILITY

1. The members, volunteers, and invitees of the Curator who perform the Curator's responsibilities under this agreement will be deemed volunteers for purposes of Chapter 90-4(4) HRS
2. It is understood and agreed upon that individuals who participate in activities at the site shall sign waivers and release forms specifically releasing the State and the Curator from any and all liability for injury or damage incurred while performing activities at the site.

In VIEW OF THE ABOVE, the parties execute this Curator Agreement for SIHP SITE 50-10-35-18695, Hilo Bay, by their signatures, on the dates below, to be effective as of the date written below.

STATE OF HAWAI'I:

_____ Date: _____
William J. Aila, Jr., Chairperson
Board of Land and Natural Resources

_____ Date: _____
Alan S. Downer, Administrator
State Historic Preservation Division,
Department of Land and Natural Resources

THE CURATOR - HO'OPAKELE HEIAU:

_____ Date: _____
Donald Pakele, Curator Coordinator
117 Alapaki Place, Hilo, Hawai'i 96720

APPROVED AS TO FORM:

Deputy Attorney General

Approved by the Board of Land and Natural Resources at its meeting held _____.



EXHIBIT 1